

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U 338 E) for Authority to, Among Other Things, Increase its Authorized Revenues for Electric Service in 2003, and to Reflect that Increase in Rates.

Application 02-05-004  
 (Filed May 3, 2002)

And Related Matter.

Investigation 02-06-002  
 (Filed June 6, 2002)

**OPINION GRANTING INTERVENOR COMPENSATION**

**1. Summary**

Pursuant to Pub. Util. Code §1804(c), this decision grants Aglet Consumer Alliance (Aglet) an award of \$1,829.86 in compensation for substantial contributions to Decision (D.) 03-05-076.

**2. Background**

This proceeding is the test year 2003 general rate case for Southern California Edison Company (SCE).

On June 13, 2003, Administrative Law Judge (ALJ) Mark Wetzell convened the first prehearing conference in the proceeding. Aglet entered an appearance as an interested party. On July 12, 2003, Aglet filed a timely notice of intent to claim compensation (NOI). The NOI included a demonstration of customer category, discussion of the adequacy of representation, a statement of the nature

and extent of planned participation, a total compensation estimate of \$80,260, and two showings of financial hardship: (1) an explanation that the economic interests of Aglet's members are small in comparison to the costs of effective participation in the proceeding, pursuant to Pub. Util. Code §1802(g), and (2) a citation to a rebuttable presumption of eligibility for compensation, pursuant to Pub. Util. Code §1804(b)(1). The rebuttable presumption was created in Rulemaking (R.) 01-05-047 by ruling of ALJ Sarah R. Thomas dated March 7, 2002.

On August 27, 2002, ALJ Wetzell ruled that Aglet had fulfilled its NOI requirements and authorized Aglet to file this claim for compensation.

On October 15, 2002, SCE filed a motion asking the Commission "to authorize a memorandum account to track the revenue requirement requested in this application during the period between May 22, 2003, and the date a final decision is adopted in this proceeding." Aglet was the only party to file a response to the motion. On April 2, 2003, the draft decision of ALJ Wetzell was mailed to parties of record. Aglet was the only party to file comments on the draft decision.

The Commission approved D.03-05-076 on May 22, 2002. The decision granted SCE's request for a memorandum account, but deferred consideration of disposition of account balances. The proceeding remains open for Commission review of the revenue requirement issues that are typical of major general rate cases.

In consolidated R.97-01-009 and Investigation 97-01-010, the Commission required intervenors seeking compensation to show that they represent interests that would otherwise be underrepresented and to present information sufficient to justify a finding that the overall benefits of a customer's participation will

exceed the customer's costs. (D.98-04-059, Finding of Fact 13, as modified by D.99-02-039.) The Commission noted that assigning a dollar value to intangible benefits may be difficult.

### **3. Customer Status, Eligibility for Compensation, and Underrepresentation**

Based on ALJ Wetzell's August 27, 2002 ruling, Aglet is a customer according to Pub. Util. Code §1802(b) and is eligible for compensation.

Aglet represents customer interests that would otherwise be underrepresented. Aglet and The Utility Reform Network (TURN) are the only active parties that represent solely residential and small commercial customers. Early in the proceeding, Aglet conferred with TURN and other customer parties regarding the scope and issues to be heard in the proceeding. Aglet, TURN and others focused their efforts on different issues. Aglet addressed SCE's financial health, refueling costs at San Onofre Nuclear Generating Station, electric transportation expenses, uncollectibles, economic and business development expenses, and post-test year ratemaking. (Aglet Opening Brief, April 17, 2003.) TURN concentrated on generation capital costs, capital additions, pole inspections and treatment, customer service, rate base adjustments and depreciation expense. (TURN Opening Brief, Volume 1, April 18, 2003.) Greenlining Institute (Greenlining) addressed corporate philanthropy, workforce diversity, and minority procurement. (Greenlining Opening Brief, April 18, 2003.)

As ALJ Angela Minkin noted in her eligibility ruling for Aglet in A.98-09-003 *et al.*:

Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the

record is fully developed and that each customer group receives adequate representation. (July 7, 1999, p. 3.)

The Office of Ratepayer Advocates (ORA) is an active party, but by its charter ORA must represent the interests of all customers, not only residential and small commercial customers. Aglet's work in the proceeding shows little or no duplication of TURN's or ORA's efforts.

#### **4. Requested Amount**

Spreadsheet summaries of Aglet's hours and direct expenses are set forth in an attachment to the compensation request. Based on that data, the elements of the compensation request are show below:

#### **COMPENSATION REQUESTED**

\$1,188.00	5.4 hours professional time, at \$220 per hour
451.00	4.1 hours travel and compensation time, at \$110 per hour
103.88	Copies
86.98	Postage, overnight delivery
\$1,829.86	Total request

The request includes all of Aglet's professional time and direct expenses associated with SCE's request for a memorandum account. It does not cover costs of general activities that are often included in compensation requests: initial review and discovery, preparation of the compensation NOI and attendance at prehearing conferences. Aglet states that it anticipates it will request compensation for those costs following issuance of the Commission's revenue requirement decision.

#### **5. Substantial Contribution**

Under Pub. Util. Code §1804(e), the Commission in order to award compensation must determine whether an intervenor has made a substantial contribution to a final order or decision. Pub. Util. Code §1802(h) defines that term:

“Substantial contribution” means that, in the judgment of the commission, the customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation.

Aglet made two substantial contributions to D.03-05-076. First, in its response to SCE's motion, Aglet asserted that SCE requested approval of a rate recovery mechanism for amounts recorded in the instant memorandum account. As the decision states, “Aglet proposes that we deny the rate recovery provisions of SCE’s proposal without prejudice, and permit SCE to make a future showing that rate recovery is justified.” (D.03-05-076, at 7.) The Commission adopted that outcome. Second, the draft decision included a discussion of general ratemaking and its relationship to memorandum accounts. In its comments, Aglet recommended that the discussion and related finding be deleted. The disputed language was deleted from D.03-05-076. No other party addressed these two issues.

## **6. Productive Participation**

It is difficult to assign specific ratepayer savings to Aglet’s contributions because D.03-05-076 does not adopt revenue requirements or rate design principles. Nonetheless, Aglet has protected customers from the risks of guaranteed rate recovery of substantial costs without further Commission review. Considering the magnitude of amounts that will be recorded in the

approved memorandum account, a small change in ratepayer risks could result in ratepayer savings that greatly exceed Aglet's costs.

The Commission finds that Aglet's participation in the proceeding was productive. Overall, the benefits of Aglet's contributions to D.03-05-076 justify compensation in the amount requested.

## **7. Hours, Claimed, Hourly Rates and Consultant Costs**

Aglet has maintained detailed records of time spent on the proceeding. Aglet separated James Weil's time into professional hours and compensation request/travel hours. No compensation for administrative time is requested, in accordance with current Commission practice. (D.99-06-002, at 8-10.) Weil is the director of Aglet, and his qualifications are appended to his direct testimony. (Exhibit 244, Appendix.)

Aglet requests Commission approval of: (1) an hourly rate of \$220 for Weil's professional work performed during 2002 and 2003, and (2) one half of that rate for preparation of this compensation request in 2003, consistent with Commission practice. The Commission has previously awarded Aglet compensation for Weil's time at a professional rate of \$220 per hour and a travel and compensation rate of \$110 per hour for work in 2000, 2001 and 2002. (D.00-07-015, Finding of Fact 4.) The latest decision that awarded Aglet compensation at the requested rates was D.03-05-065, approved May 22, 2003.

Aglet incurred copying and postage costs in connection with its participation in the proceedings that led to D.03-05-076. Aglet states that its copying costs are actual or estimated costs at commercial copy shops. Postage and overnight delivery charges are made at actual or estimated costs.

**8. Allocation of Costs by Major Issue**

Allocation of professional hours by major issue is set forth in the compensation request. Weil had 3.3 hours of time in 2002 related to SCE's request for a rate recovery mechanism for amounts recorded in the memorandum account and 2.1 hours of time spent in 2003 related to the draft discussion of general ratemaking.

**9. Other Costs**

Other costs necessary for Aglet's participation in this proceeding amount to \$190.86. All of the costs were out-of-pocket expenses for copies, postage and overnight delivery. The total amount for other costs is reasonable considering the duration and substance of the proceeding.

**10. Award**

We award Aglet \$1,829.86 for contributions to D.03-05-076. Consistent with previous Commission decisions, we will order that interest be paid on the award amount (calculated at the three-month commercial paper rate) commencing the 75th day (September 22, 2003) after Aglet filed this compensation request and continuing until the utility makes full payment. The award is to be paid by SCE pursuant to Pub. Util. Code § 1807.

**11. Waiver of Comment Period**

This is a compensation matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(3) and Rule 77.7(f)(6) of the Rules of Practice and Procedure, the otherwise applicable 30-day review and comment period is being waived.

**12. Assignment of Proceeding**

Carl W. Wood is the Assigned Commissioner in this proceeding and Mark S. Wetzell is the assigned ALJ.

**Findings of Fact**

1. Aglet timely requests compensation for contributions to D.03-05-076 as set forth herein.
2. Aglet requests hourly rates for professional work that have already been approved by the Commission for the years 2002 and 2003.
3. The miscellaneous costs incurred by Aglet in this proceeding are reasonable.

**Conclusions of Law**

1. Aglet has fulfilled the requirements of Pub. Util. Code §§ 1801-1802, which govern awards of intervenor compensation.
2. Aglet should be awarded \$1,829.86 for substantial contributions to D.03-05-076 in this proceeding.

**O R D E R**

**IT IS ORDERED** that:

1. Aglet Consumer Alliance (Aglet) is awarded \$1,829.86 as set forth herein for substantial contributions to Decision 03-05-076.
2. Southern California Edison Company shall, within 30 days of this order, pay Aglet \$1,829.86 plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release, H.15, with interest beginning September 22, 2003, and continuing until full payment has been made.

3. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**Compensation Decision Summary Information**

<b>Compensation Decision (s)</b>	
<b>Contribution Decision(s):</b>	D0305076
<b>Proceeding(s):</b>	A0205004/I0206002
<b>Author:</b>	ALJ Wetzell
<b>Payer(s):</b>	Southern California Edison Company

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Reason Change/Disallowance</b>
Aglet Consumer Alliance	7/7/2003	\$1,829.86	\$1,829.86	

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Request</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
James	Weil	Policy Expert	Aglet Consumer Alliance	\$220	2002/2003	\$220